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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
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12 ADAM GORDY, ) Case No. CV 18-2590-GW (JPR)  
13 Plaintiff, )  
14 v. ) ORDER DISMISSING COMPLAINT WITH  
15 AGAMYAN et al., ) LEAVE TO AMEND AND DENYING  
16 Defendants. ) REQUEST FOR APPOINTMENT OF  
17 ) COUNSEL  
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On March 30, 2018, Plaintiff, an inmate at California State Prison-Los Angeles County, in Lancaster, filed pro se a civil-rights action under 42 U.S.C. § 1983 and requested appointment of counsel. He was subsequently granted leave to proceed in forma pauperis. His claims arise from allegedly inadequate medical care he received at CSP-LAC following a 2017 mental-health crisis.

After screening the Complaint under 28 U.S.C. §§ 1915(e)(2) and 1915A, the Court finds that its allegations largely fail to state a claim upon which relief might be granted. Because it appears that at least some of the defects can be cured by

1 amendment, the Complaint is dismissed with leave to amend. See  
2 Lopez v. Smith, 203 F.3d 1122, 1130-31 (9th Cir. 2000) (en banc)  
3 (holding that pro se litigant must be given leave to amend  
4 complaint unless absolutely clear that deficiencies cannot be  
5 cured). If Plaintiff desires to pursue any of his claims, he is  
6 ORDERED to file a first amended complaint within 28 days of the  
7 date of this order, remedying the deficiencies discussed below.

#### 8 **ALLEGATIONS OF THE COMPLAINT**

9 Plaintiff has been incarcerated for robbery since 2009.  
10 (Compl., Ex. B at 8.)<sup>1</sup> He has a "severe history of mental  
11 illness" (id., Ex. E at 14) and has been diagnosed with  
12 schizoaffective disorder and a mood disorder (id., Ex. B at 8,  
13 66). On February 21, 2012, he was admitted to the Mental Health  
14 Crisis Bed unit at his prison, apparently for overdosing on  
15 "pills and heroin." (Id. at 8, 20-21.) He apparently received a  
16 suicide-risk evaluation by prison staff sometime in 2014, for  
17 unknown reasons.<sup>2</sup> (Id.) On February 4, 2017, nondefendant  
18 doctor "K. Rastegari" prescribed him buspirone, mirtazapine, and  
19 perphenazine, which he was still taking at the time of the events  
20 that gave rise to his claims. (Id. at 66, 84-86.) Until  
21 February 13, 2017, Plaintiff received mental-health services at  
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25 <sup>1</sup> The Court uses the pagination generated by its Case  
26 Management/Electronic Case Filing system to refer to portions of  
27 Plaintiff's filings that are not consecutively paginated or  
28 contained in numbered paragraphs.

<sup>2</sup> The results of that evaluation are not included in the  
Complaint or its attached exhibits.

1 the EOP level of care.<sup>3</sup> (Id. at 8, 20-21.) As of March 31,  
2 2017, he was receiving services at the CCCMS level of care.<sup>4</sup>  
3 (Id., Ex. E at 14.)

4 On March 31, 2017, Plaintiff sought "mental health staff  
5 help for his suicidal ideations." (Compl. ¶ 6.) He was placed  
6 on suicide watch in a holding cell at "C. Clinic." (Id., Ex. B  
7 at 2.) The following morning, he was evaluated by Defendant  
8 "Granlund Psy.D." (Compl. ¶ 3 & Ex. B at 6-8.) He told Granlund  
9 that he was "depressed" and "not doing good," he had received  
10 "bad news," his mother had "had surgery," and he "hadn't been  
11 seen by anybody." (Id., Ex. B at 6, 8.) Granlund reported that  
12 she "attempted to obtain more details" about Plaintiff's symptoms  
13 and family situation but was unable to do so. (Id. at 8.)  
14 Plaintiff "notified Granlund that he still felt suicidal" and  
15 said that "if released from suicide watch he would slice his  
16 wrist." (Compl. ¶ 7.) Granlund reported that Plaintiff had four  
17 of 10 "imminent warning signs" of suicide but "denied plans,  
18 mean[s,] and intent to kill himself when asked about a specific  
19 plan." (Id., Ex. B at 7-8.)

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21 <sup>3</sup> EOP stands for "Enhanced Outpatient Program," which is for  
22 inmates who are "unable to function in the general prison  
23 population" because of "acute onset or significant decompensation  
24 of a serious mental disorder." See Coleman v. Brown, 28 F. Supp.  
25 3d 1068, 1075 (E.D. Cal. 2014).

26 <sup>4</sup> The Correctional Clinical Case Management System "is the  
27 lowest level of outpatient mental health care" in the California  
28 state prison system, meant for inmates who "exhibit[] stable  
functioning," do not need "higher levels of care," and show  
"symptom control" or "partial remission due to treatment."  
Haughton v. Sherman, No. EDCV 16-251-DOC (GJS), 2016 WL 7167905, at  
\*7 n.4 (C.D. Cal. Oct. 19, 2016), accepted by 2016 WL 7167924 (C.D.  
Cal. Dec. 7, 2016).

1 Granlund consulted with nondefendant "Dr. Topchyan," a  
2 supervising psychologist, and the two agreed that Plaintiff's  
3 condition "[did] not warrant" admission to the MHCB. (Id. at 8.)  
4 Granlund observed that Plaintiff had been "placed up for transfer  
5 to SVSP or COR"<sup>5</sup> on March 25, 2017, and speculated that "[he] may  
6 be attempting to avoid transfer as his family lives in the Los  
7 Angeles area." (Id.) Plaintiff alleges that he "was not  
8 malingerant [sic] he truly was suicidal." (Compl. at 20.) He  
9 was not present when the transfer decision was made because he  
10 had a "Board Consultation Hearing" around the same time, and he  
11 did not learn of the prospective transfer until sometime after  
12 Granlund's evaluation. (Id., Ex. E at 11.)<sup>6</sup> At around 11:15  
13 a.m. on April 1, 2017, shortly after the meeting with Granlund,  
14 Plaintiff was discharged from suicide watch and returned to his  
15 cell. (Id., Ex. B at 2; see also Compl. ¶¶ 7-8.)

16 At "approximately 11:30 a.m." that same day, Plaintiff's  
17 cellmate "found . . . Plaintiff bleeding from his wrist."  
18 (Compl. ¶ 8.) Plaintiff was "escorted to Facility 'D' Medical."  
19 (Id.) Nondefendant "R.N. Amos" completed a CDCR "Medical Report  
20 of Injury or Unusual Occurrence" at around 12:30 p.m., noting  
21 that Plaintiff had an "abrasion/scratch" on his left wrist and  
22 had stated "Imma kill myself." (Id. ¶ 9 & Ex. A.) Amos  
23 allegedly "notified Granlund that . . . Plaintiff was bleeding  
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25 <sup>5</sup> These are apparently prisons in other parts of the state.  
26 Salinas Valley State Prison is in Monterey County and Corcoran  
27 State Prison is in Kings County.

28 <sup>6</sup> Plaintiff's filings do not disclose when he learned he  
might be transferred.

1 from his wrist" and was still "suicidal." (Compl. ¶ 9.)<sup>7</sup>  
2 Granlund told Amos that "she had released" him earlier and "again  
3 sent him home after he made attempts to cut his wrist." (Id.  
4 ¶ 10.) Plaintiff was returned to his cell. (See id., Ex. A.)

5 On April 2, 2017, at around 10:55 a.m., Plaintiff was  
6 evaluated by nondefendant "B. Ivra Ph.D" in connection with an  
7 "ordered . . . five (5) day stepdown." (Compl. ¶ 12 & Ex. B at  
8 1, 9-10.) Ivra reported Plaintiff's stating that he was  
9 suicidal, with plans to cut and hang himself. (Id., Ex. B at 9,  
10 13.)<sup>8</sup> Ivra referred him to MHCB. (Id. at 1, 9.) "Right after  
11 the interview" with Ivra, "the doctor" ordered Plaintiff to be  
12 held in "'B'-section shower" to "keep him safe from his suicidal  
13 tendencies [that] he [had] just expressed." (Compl. ¶ 13.)

14 Defendant "Agamyan Ph.D" arrived shortly thereafter and  
15 "evaluated Plaintiff." (Id. ¶¶ 3, 14 & Ex. B at 20-21.)  
16 Plaintiff "expressed" to Agamyan that he was still suicidal and  
17 that "if he was returned to his cell he would cut his wrist"  
18 again. (Compl. ¶ 14.) Agamyan "told Plaintiff that she would  
19 only order" MHCB placement "if he actually hurt[] himself."  
20 (Id.) Agamyan completed a CDCR "Suicide Risk Evaluation" form  
21 acknowledging that Plaintiff said he was suicidal and hearing  
22 voices and claimed to have made "8 to 10" previous suicide  
23 attempts; noted he had overdosed on "pills and heroin" twice in

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25 <sup>7</sup> In fact, Amos's report does not indicate that Plaintiff was  
bleeding. (See Compl., Ex. A.)

26 <sup>8</sup> Ivra nevertheless checked boxes on the follow-up form  
27 indicating that Plaintiff had "not at all" had thoughts of suicide  
28 and was "not at all" likely to harm himself in the next week. (See  
Compl., Ex. B at 9, 12.)

1 2012, while in CDCR custody; and opined that he had four of 10  
2 "imminent warning signs" of suicide. (Id., Ex. B at 20-21.) The  
3 report nevertheless concluded that Plaintiff "has no desire to  
4 die and has no clear plan or intent," and his "anger and  
5 insistence" on MHCB placement was an attempt "to avoid transfer  
6 [to another prison] as his family lives in the Los Angeles area."  
7 (Id. at 21.) Plaintiff alleges he was truly suicidal and not  
8 malingering. (Compl. at 20.) Agamyan "purposely manipulated the  
9 [medical] documentation" in an effort to "imply that . . .  
10 Plaintiff [was] malingering." (Id. at 24-25.) He was returned  
11 to his cell around 11:55 a.m. (Id. ¶¶ 14-15 & Ex. B at 21.)  
12 Plaintiff "immediately" "sliced his wrists [and] stomach"  
13 and "ingested a razor blade in the attempt to end his life."  
14 (Compl. ¶¶ 15, 21.) Unnamed "custody" staff "discovered that  
15 [he] was bleeding" and took him to the "C/D medical" facility and  
16 later to the treatment triage area. (Id. ¶ 15.) That afternoon,  
17 Plaintiff told nondefendant nurse "K. Hammer" that "he wanted to  
18 kill himself so he swallowed a razor blade and cut himself."  
19 (Id., Ex. B at 72.) Hammer observed that he had "many small  
20 lacerations (self-inflicted)" on his abdomen, wrists, and  
21 forearms and was reporting "acute pain" from "razor blade  
22 ingestion." (Id. at 71.) She also noted that he was "calm[,]  
23 smiling[,]  
24 and joking with staff," without visible discomfort or  
25 distress. (Id.) Hammer consulted with nondefendant doctor "C.  
26 Wu" by phone, and an x-ray was scheduled for the following day.  
27 (Id. at 67, 70-71.) Plaintiff indicated to Hammer that he agreed  
28 with the treatment plan. (Id. at 71.) Agamyan reevaluated him  
while he was in the triage area and placed him back on suicide

1 watch. (Id. at 19.)

2 Later that evening, Plaintiff sounded an alarm, complaining  
3 that he had been throwing up blood and was suffering from stomach  
4 pain. (Id. at 73-74.) He was returned to triage. (Id.) An  
5 unnamed correctional officer told nondefendant nurse "Flora"  
6 that Plaintiff had admitted "he was doing all these [self-harming  
7 behaviors] because he doesn't want to be transferred." (Id. at  
8 74.) Flora observed "no acute distress" from Plaintiff but  
9 notified Wu anyway. (Id.) Wu came to triage and assessed  
10 Plaintiff in person but did not send him to the hospital. (Id.  
11 at 75.) Medical staff "ignored" Plaintiff's pain "until the next  
12 day." (Compl. ¶ 16.)

13 On April 3, 2017, Plaintiff was given an x-ray, which showed  
14 a "razor blade . . . projected over the stomach." (Id. ¶ 17 &  
15 Ex. B at 89.) He was "taken in a[n] ambulance to Palmdale  
16 Regional Hospital," where he was "given ample exams in a myriad  
17 of test[s]" over the next four days. (Compl. ¶ 17; see also  
18 generally id., Ex. D.) On April 8, 2017, Plaintiff "was admitted  
19 to the Mental Health Crisis Bed (MHCB) in Chino prison." (Compl.  
20 ¶ 18.)

21 Plaintiff brings claims for deliberate indifference to  
22 serious medical needs under the Eighth Amendment (id. at 18) and  
23 violations of the Americans with Disabilities Act, 42 U.S.C.  
24 §§ 12101 et seq., and § 504 of the Rehabilitation Act, 29 U.S.C.  
25 § 794 (id. at 25).<sup>9</sup> He sues Agamyan, Granlund, and John Does One

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27 <sup>9</sup> The Complaint's introductory paragraph asserts violations  
28 of the First and 14th amendments and what appears to be a state-law  
claim for negligence or medical malpractice (see Compl. at 8), but

1 through Four. (Id. ¶ 4.) Defendants are sued in their official  
2 capacity on the ADA/RA claim and otherwise in their individual  
3 capacity. (Id. ¶¶ 3-4.) Plaintiff seeks compensatory damages of  
4 \$100,000 against Agamyan and Granlund "jointly and severally" and  
5 \$100,000 against "the state government or the governmental  
6 agency" on the ADA/RA claim. (Id. at 12.) He seeks punitive  
7 damages of \$100,000 apiece against Agamyan, Granlund, and the  
8 "state government or governmental agency." (Id.)

#### 9 STANDARD OF REVIEW

10 A complaint may be dismissed as a matter of law for failure  
11 to state a claim "where there is no cognizable legal theory or an  
12 absence of sufficient facts alleged to support a cognizable legal  
13 theory." Shroyer v. New Cingular Wireless Servs., Inc., 622 F.3d  
14 1035, 1041 (9th Cir. 2010) (as amended) (citation omitted);  
15 accord O'Neal v. Price, 531 F.3d 1146, 1151 (9th Cir. 2008). In  
16 considering whether a complaint states a claim, a court must  
17 generally accept as true all the factual allegations in it.  
18 Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009); Hamilton v. Brown,  
19 630 F.3d 889, 892-93 (9th Cir. 2011). The court need not accept  
20 as true, however, "allegations that are merely conclusory,  
21 unwarranted deductions of fact, or unreasonable inferences." In  
22

23  
24 those theories are not included among the Complaint's articulated  
25 "grounds" for relief (see id. at 18-29). The Complaint does not  
26 mention the First or 14th amendments anywhere else and fails to  
27 allege any facts suggesting that Plaintiff intends to pursue relief  
28 on either ground. Plaintiff appears to treat malpractice or  
negligence as part of his deliberate-indifference claim rather than  
as a separate cause of action. (See generally id. at 18-25.) If  
Plaintiff wishes to bring a claim under any of those theories, he  
may attempt to do so in an amended pleading.



1 re Gilead Scis. Sec. Litig., 536 F.3d 1049, 1055 (9th Cir. 2008)  
2 (citation omitted); see also Shelton v. Chorley, 487 F. App'x  
3 388, 389 (9th Cir. 2012) (finding that district court properly  
4 dismissed civil-rights claim when plaintiff's "conclusory  
5 allegations" did not support it). Although a complaint need not  
6 include detailed factual allegations, it "must contain sufficient  
7 factual matter, accepted as true, to 'state a claim to relief  
8 that is plausible on its face.'" Iqbal, 556 U.S. at 678 (quoting  
9 Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)); Yagman v.  
10 Garcetti, 852 F.3d 859, 863 (9th Cir. 2017). A claim is facially  
11 plausible when it "allows the court to draw the reasonable  
12 inference that the defendant is liable for the misconduct  
13 alleged." Iqbal, 556 U.S. at 678. "A document filed pro se is  
14 'to be liberally construed,' and 'a pro se complaint, however  
15 inartfully pleaded, must be held to less stringent standards than  
16 formal pleadings drafted by lawyers.'" Erickson v. Pardus, 551  
17 U.S. 89, 94 (2007) (per curiam) (citations omitted); Byrd v. Phx.  
18 Police Dep't, 885 F.3d 639, 642 (9th Cir. 2018) (citations  
19 omitted).

## 20 DISCUSSION

### 21 I. Plaintiff Has Not Stated a Claim Under the ADA or RA

22 Plaintiff's second ground for relief is based on purported  
23 violations of title II of the ADA and § 504 of the RA. (See  
24 Compl. at 25-29.) Title II of the ADA prohibits public entities  
25 from discriminating against "qualified" individuals with a  
26 disability "by reason of" that disability. See 42 U.S.C.  
27 § 12132. To state a claim under title II of the ADA, a plaintiff  
28 must allege that (1) he is an "individual with a disability"; (2)

1 he is "otherwise qualified to participate in or receive the  
2 benefit of" the defendant public entity's services, programs, or  
3 activities; (3) he was "excluded from participation in or denied  
4 the benefits" of those services, programs, or activities or  
5 "otherwise discriminated against" by the entity; and (4) the  
6 exclusion, denial, or discrimination was "by reason of [his]  
7 disability." Simmons v. Navajo Cnty., 609 F.3d 1011, 1021 (9th  
8 Cir. 2010) (citation omitted). Title II provides for liability  
9 against public entities only. See Wilkins-Jones v. Cnty. of  
10 Alameda, 859 F. Supp. 2d 1039, 1045, 1048 (N.D. Cal. 2012)  
11 (dismissing title II claim against private actor).

12 Section 504 of the RA prohibits disability discrimination  
13 "under any program or activity receiving Federal financial  
14 assistance." 29 U.S.C. § 794(a). To state a claim on that  
15 theory, a plaintiff must allege that (1) he is an "individual  
16 with a disability" who is (2) "'otherwise qualified' to receive  
17 the benefit[s]" of the program or activity but was (3) denied  
18 such benefits because of his disability, and (4) the program or  
19 activity receives federal financial assistance. See Weinreich v.  
20 L.A. Cnty. Metro. Transp. Auth., 114 F.3d 976, 978 (9th Cir.  
21 1997) (citations omitted).

22 The ADA "prohibits discrimination because of disability, not  
23 inadequate treatment for disability." Simmons, 609 F.3d at 1022.  
24 It "does not create a remedy for medical malpractice." Id.  
25 (citation omitted) (no ADA cause of action based on jail's  
26 allegedly inadequate treatment for detainee's depression, which  
27 resulted in his suicide). There is "no significant difference in  
28 analysis of the rights and obligations created by the ADA and the

1 Rehabilitation Act," and courts have "applied the same analysis  
2 to claims brought under both statutes." Zukle v. Regents of the  
3 Univ. of Cal., 166 F.3d 1041, 1045 n.11 (9th Cir. 1999) (student  
4 with learning disability failed to make out prima facie case  
5 against medical school under either statutory provision).

6 Plaintiff's ADA/RA claim is based squarely on Defendants'  
7 alleged failure to provide adequate treatment for his alleged  
8 mental illness after he continued to express suicidal thoughts.  
9 (See, e.g., Compl. at 26-27 (Plaintiff was "exclud[ed]" from the  
10 "service, program, or activity" of placement on suicide watch and  
11 housing in MHCB).) That claim fails as a matter of law. See  
12 Simmons, 609 F.3d at 1022; see also Figueira ex rel. Castillo v.  
13 Cnty. of Sutter, No. 2:15-cv-00500-KJM-AC, 2015 WL 6449151, at  
14 \*8-9 (E.D. Cal. Oct. 23, 2015) (dismissing ADA/RA claims arising  
15 from suicide of mentally ill inmate following allegedly  
16 inadequate health care in custody; noting that "[t]he defendants  
17 cannot have violated the ADA by failing to attend to the medical  
18 needs of disabled prisoners").

19 Should Plaintiff elect to pursue any claim under the ADA or  
20 the RA, he must allege facts showing that he is disabled,  
21 otherwise qualified to receive a benefit or service, was  
22 discriminated against or denied that benefit because of his  
23 disability, and that the entity responsible was a public entity  
24 (for an ADA claim) or a recipient of federal funds (for an RA  
25 claim). See Simmons, 609 F.3d at 1021; Weinreich, 114 F.3d at  
26 978. He may not bring such a claim based solely on medical  
27 treatment or lack thereof for his mental illness. Simmons, 609  
28 F.3d at 1022.

1 **II. The Allegations Against the Doe Defendants Do Not Comply**  
2 **with Federal Rule of Civil Procedure 8**

3 Does One through Four are alleged to be mental-health or  
4 medical staff members at CSP-LAC "whose names are presently  
5 unknow[n] to Plaintiff." (Compl. ¶ 4.) There are no further  
6 factual allegations against them. Rule 8(a)(2) of the Federal  
7 Rules of Civil Procedure requires that a complaint contain "a  
8 short and plain statement of the claim showing that the pleader  
9 is entitled to relief." The purpose of the requirement is to  
10 "give the defendant fair notice of what the claim is and the  
11 grounds upon which it rests." Twombly, 550 U.S. at 555 (citation  
12 and alteration omitted). Rule 8(a)(2) "requires a 'showing,'  
13 rather than a blanket assertion, of entitlement to relief." See  
14 id. at 555 n.3. To comply with Rule 8, a complaint must allege  
15 sufficient facts to give fair notice and to enable the other  
16 party to defend itself effectively, and it must plausibly suggest  
17 entitlement to relief such that it is not unfair to subject the  
18 opposing party to the expense of discovery and continued  
19 litigation. See Starr v. Baca, 652 F.3d 1202, 1216 (9th Cir.  
20 2011); see also Brazil v. U.S. Dep't of Navy, 66 F.3d 193, 199  
21 (9th Cir. 1995) (Rule 8 requires that complaint provide "minimum  
22 threshold" giving defendant "notice of what it is that it  
23 allegedly did wrong").

24 Further, the use of Doe defendants is not favored in the  
25 Ninth Circuit. See Wakefield v. Thompson, 177 F.3d 1160, 1163  
26 (9th Cir. 1999) (citation omitted). When the identity of the  
27 defendant is not known before the filing of a complaint, however,  
28 the plaintiff "should be given an opportunity through discovery

1 to identify the unknown defendants" unless it is clear discovery  
2 would not identify the person or "the complaint would be  
3 dismissed on other grounds." Id. (citation omitted).

4 The Complaint does not allege any specific acts or omissions  
5 by any Doe Defendant but does allege two instances of conduct by  
6 unidentified people. On April 2, 2017, "custody" staff  
7 discovered that Plaintiff was bleeding and took him to receive  
8 medical treatment. (See Compl. ¶ 15.) That night, an unnamed  
9 correctional officer apparently told nurse Flora that Plaintiff  
10 admitted to harming himself in an attempt to avoid transfer.  
11 (See id., Ex. B at 74.) None of those people are alleged to have  
12 been medical or mental-health practitioners, and they are nowhere  
13 identified as Doe Defendants. Plaintiff's claims of deliberate  
14 indifference and disability discrimination do not appear to  
15 implicate their conduct.

16 Moreover, Plaintiff's voluminous attached exhibits identify  
17 by name numerous medical and mental-health practitioners who  
18 interacted with him at relevant times, including nondefendants  
19 Ivra, Hammer, Flora, Wu, Amos, Topchyan, and Rastegari, and those  
20 same exhibits give no hint that any practitioner's name has been  
21 omitted or is unknown or that he intended to sue any of them.  
22 (See generally Compl., Exs. A-E.) If he contends that medical or  
23 mental-health staff whose names are neither known to him nor  
24 contained in his exhibits contributed to his injuries, then in  
25 any amended pleading he chooses to file, he must allege specific  
26 facts as to what each such unidentified person did and what legal  
27 theory he intends to pursue against each of them. See Starr, 652  
28 F.2d at 1216; Wakefield, 177 F.3d at 1163.

1 **III. The Complaint Does Not Comply with Federal Rule of Civil**  
2 **Procedure 10(a)**

3 Rule 10(a) of the Federal Rules of Civil Procedure requires  
4 that "[t]he title of the complaint must name all the parties."  
5 The title of the Complaint is Adam Gordy v. Agamyan Ph.D.,  
6 Granlund, Psy.D., et al. In any amended complaint, Plaintiff  
7 must list all the Defendants in the caption or the amended  
8 complaint will be subject to dismissal on that basis alone. See  
9 Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (as  
10 amended).

11 **IV. Appointment of Counsel Is Not Warranted**

12 The Complaint includes a request for appointment of counsel  
13 with a declaration in support. (See Compl. at 14-16.) In his  
14 declaration, Plaintiff asserts that his case is "complex" because  
15 it involves unknown Doe Defendants, "will require discovery of  
16 documents and depositions of a number of witnesses," and  
17 "involves medical issues that may require expert testimony," and  
18 that he cannot litigate it adequately on his own because he is  
19 mentally ill and "may not have a high school education." (See  
20 Compl. at 15 (Pl.'s Decl.) ¶¶ 2-7.)

21 There is no constitutional right to appointed counsel in a  
22 civil-rights case. See Palmer v. Valdez, 560 F.3d 965, 970 (9th  
23 Cir. 2009). Only "exceptional circumstances" support such a  
24 discretionary appointment. Id. (citations omitted). Exceptional  
25 circumstances exist when there is both a likelihood of success on  
26 the merits and a demonstrated inability of the pro se litigant to  
27 articulate his claims in light of their legal complexity. Id.  
28 (citing Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983) (per

1 curiam)). A plaintiff requesting appointment of counsel based on  
2 his "debilitating mental illness" must submit "substantial  
3 evidence" of that mental illness and how it impairs his ability  
4 to litigate his case on his own. See Allen v. Calderon, 408 F.3d  
5 1150, 1152-53 (9th Cir. 2005) (holding that court must assess  
6 movant's mental health during "relevant time period" and must  
7 comply with Fed. R. Civ. P. 17(c) if "substantial evidence" of  
8 debilitating mental illness exists).

9 Plaintiff has demonstrated that he is able to articulate his  
10 claims at the pleading stage despite his alleged mental-health  
11 and educational challenges, and he has not shown exceptional  
12 circumstances. He has not provided "substantial evidence" of the  
13 current extent of any mental illness, how long it is expected to  
14 last, whether it is adequately controlled with medicine, or how  
15 it directly affects his ability to prosecute this action. See  
16 Allen, 408 F.3d at 1153.

17 As discussed above in Section II, he evidently knows the  
18 names of all the health-care personnel at CSP-LAC who may be  
19 implicated by his allegations. His concerns about the potential  
20 complexity of the legal issues appear to relate to discovery or  
21 an eventual trial. If any Defendant is eventually served with  
22 one of Plaintiff's pleadings and files an answer, the Court may  
23 thereafter issue case-management orders allowing discovery to  
24 begin or setting a trial date. Plaintiff's motion for  
25 appointment of counsel is therefore DENIED without prejudice to  
26 the filing of a similar motion at a later stage of the  
27 proceedings.

28 \*\*\*\*\*

1 If Plaintiff desires to pursue his claims, he is ORDERED to  
2 file a first amended complaint within 28 days of the date of this  
3 order, remedying the deficiencies discussed above. The FAC  
4 should bear the docket number assigned to this case, be labeled  
5 "First Amended Complaint," and be complete in and of itself,  
6 without reference to the original Complaint or any other  
7 pleading, attachment, or document. **Plaintiff is warned that if**  
8 **he fails to timely file a sufficient FAC, the Court may dismiss**  
9 **this action on the grounds set forth above or for failure to**  
10 **diligently prosecute.**<sup>10</sup>

11  
12 DATED: June 22, 2018

  
\_\_\_\_\_  
JEAN ROSENBLUTH  
U.S. MAGISTRATE JUDGE

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24 <sup>10</sup> If Plaintiff believes this order erroneously disposes of  
25 any of his claims, he may file objections with the district judge  
26 within 20 days of the date of the order. See Bastidas v. Chappell,  
27 791 F.3d 1155, 1162 (9th Cir. 2015) ("When a magistrate judge  
28 believes she is issuing a nondispositive order, she may warn the  
litigants that, if they disagree and think the matter dispositive,  
they have the right to file an objection to that determination with  
the district judge.").